

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93 – 46

September 20, 1993

RE: State employee lease with company holding provider agreements

This opinion is in response to your August 17, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 20, 1993, meeting of the Commission, and the following opinion is issued.

You state the relevant facts as follows. You represent a state employee who has leased property to a private company that provides medical escorts for recipients of Medicaid. This company has a provider agreement with the Department for Medicaid Services within the Cabinet for Human Resources. Upon providing transportation for these recipients, the company requests reimbursement from Medicaid Services. You are asking whether or not this violates the provisions of KRS Chapter 11A.

KRS 11A.040(4) states:

No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by any state agency. This provision shall not apply to a contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain or to agreements which may directly or indirectly involve public funds disbursed through entitlement programs.

The Commission concludes that the leasing of property by a state employee to a private company that holds a provider agreement with the Department for Medicaid Services is not in violation of KRS Chapter 11A. The state employee holds no contracts with the state. Additionally, the state funds involved are entitlement funds.